

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
MOBILE RELAY ASSOCIATES, INC.	)	FCC File No. A023000
	)	
Petition for Reconsideration of Grant of License for	)	
Station WPPF353, Poway, California	)	

**ORDER ON RECONSIDERATION**

**Adopted:** August 14, 2000

**Released:** August 23, 2000

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* On December 22, 1999, Mobile Relay Associates, Inc. (Mobile Relay) filed a Petition for Reconsideration of the November 22, 1999 action of the Public Safety and Private Wireless Division (Division), Licensing and Technical Analysis Branch (Branch) granting the above-captioned license, but limiting the power output on some channels to 27 watts.<sup>1</sup> For the reasons discussed herein, we deny Mobile Relay's petition for reconsideration.<sup>2</sup>

2. *Background.* On May 12, 1998, Mobile Relay submitted to the Personal Communications Industry Association (PCIA), an FCC-certified frequency coordinator,<sup>3</sup> an application for an Industrial/Business Radio Service license in the 450-470 MHz band. As submitted to PCIA, Mobile Relay's application sought to operate the proposed station with 500 watts effective radiated power (ERP). Section 90.205(g) of the Rules sets forth the maximum ERP for stations in the 450-470 MHz band,<sup>4</sup> and provides that applicants seeking to deviate from the ERPs and antenna heights set forth therein must submit a technical analysis demonstrating that the requested station parameters will not produce a signal strength in excess of 39 dBu at any point along the edge of the requested service area.<sup>5</sup> Mobile Relay attached to its application an engineering study and contour map supporting its request to operate at 500 watts ERP, because the maximum ERP permitted under Section 90.205(g) was 27 watts. While the

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<sup>1</sup> Mobile Relay Petition for Reconsideration (filed Dec. 22, 1999) (Petition).

<sup>2</sup> The Division has issued two prior *Orders* in this proceeding. On April 6, 2000, the Division issued an *Order on Reconsideration* dismissing Mobile Relay's Petition for Reconsideration as untimely and improperly filed. Mobile Relay Associates, Inc., *Order on Reconsideration*, DA 00-751 (WTB PSPWD rel. Apr. 6, 2000). On April 28, 2000, the Division on its own motion rescinded the *Order on Reconsideration* and reinstated the Petition. Mobile Relay Associates, Inc., *Order*, DA 00-954 (WTB PSPWD rel. Apr. 28, 2000).

<sup>3</sup> Frequency coordination is the process by which private organizations recommend to the Commission the most appropriate frequency for an applicant in a designated radio service. The recommendations of frequency coordinators facilitate the Commission's efforts to promote optimum and efficient use of the available spectrum for the benefit of all members of the public. Mobile Relay Associates, Inc., *Order*, 15 FCC Rcd 1361, 1365 ¶ 7 (WTB PSPWD 1999).

<sup>4</sup> 47 C.F.R. § 90.205(g).

<sup>5</sup> 47 C.F.R. § 90.205(g)(2).

application was in PCIA's possession, however, the technical analysis apparently became separated from the application.<sup>6</sup> Consequently, PCIA reduced the requested power from 500 watts to 27 watts before filing Mobile Relay's coordinated application with the Commission on July 17, 1998. On November 22, 1999, the Commission granted Mobile Relay's license with a specification to operate at an ERP of 27 watts.

3. *Discussion.* Mobile Relay alleges that it did not discover the reduction in ERP until it received a copy of its authorization in December 1999. It suggests that we either (1) grant the application at the requested 500 watt ERP without further coordination from PCIA, or (2) afford Mobile Relay an opportunity for PCIA to provide a revised coordination for the application with an ERP of 500 watts. We find, however, that Mobile Relay has not adequately justified such action at this juncture. We believe that the Branch acted properly in granting the application as it was received from PCIA. Mobile Relay could have reviewed its application while pending at the Commission, but apparently did not.<sup>7</sup> Additionally, PCIA's alleged error did not lead to a dismissal of Mobile Relay's application. Rather, the Branch granted the application and granted Mobile Relay an authorization to operate on the requested frequencies. Under the circumstances presented, we are not persuaded that the apparent lack of communication between PCIA and Mobile Relay warrants reconsideration of the subject license grant. We find that the Branch properly granted Mobile Relay's application per the specifications requested in the coordinated application received from PCIA. We nonetheless note that Mobile Relay has the option of filing with the Commission a properly coordinated request to modify the license to increase the authorized ERP.<sup>8</sup>

4. ACCORDINGLY, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by Mobile Relay on December 22, 1999 IS DENIED.

5. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau

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<sup>6</sup> Petition at 2.

<sup>7</sup> We believe that the present matter is distinguishable from another case involving Mobile Relay, where we concluded that an application received by the Commission after the filing deadline should not be dismissed as untimely, because the untimely filing was caused by PCIA, rather than Mobile Relay. Mobile Relay Associates, Inc., *Order*, 14 FCC Rcd 21119, 21121 ¶ 4 (WTB PSPWD 1999).

<sup>8</sup> See 47 C.F.R. §§ 1.947, 90.135.